IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH
S.B. Civil Writ Petition No.8317/06
M/s. Narayani Metals Industries & Anr.
Vs.
Additional Civil Judge & Ors.

13.04.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri R.P. Garg for petitioners.

Heard learned counsel for the petitioner.

The petitioner has challenged the order dated 23.7.05 by which one Ajay Kumar has been impleaded as party on the basis of a will dated 10.7.2000 executed in his favour by deceased Mathura Das who was the original plaintiff. According to learned counsel in between one Nand Kumar had also been substituted as L.R. of Mathur Lal and therefore there could be

no second substitution on the basis of a will which already existed at the time of original substitution. Learned trial court while allowing the application had categorically observed that when Nand Kumar was substituted for Mathura Das, he was merely substituted with the right to prosecute the Civil Suit. Now by order dated 23.7.05, Ajay Kumar has been substituted on the basis of the rights which have devolved upon him by the will of deceased Mathura Das. In these circumstances, Nand Kumar was not necessary to be retained as the plaintiff and therefore the application filed by the petitioner was taken as a device to prolong the proceedings.

It goes without saying that the argument that Ajay Kumar could not be

substituted as legal representative can be raised by the petitioner even before the learned trial court. Regardless of the fact, as to who is substituted as a landlord or the plaintiff, the status of the plaintiff would always continue to be that of a tenant, which fact he has not disputed. If the petitioners raise all those objections which they consider necessary, they have to raise them before the trial court in the course of trial which shall be considered by that Court in accordance with law. I do not consider it appropriate to entertain the writ petition against the impugned order.

With these observations, the writ petition is disposed of.

(Mohammad Rafiq),J.

Rs/-